

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

ORDER DISMISSING CASE

ROSENSTENGEL, Chief District Judge:

This case was opened when Petitioner Antonio Thigpen filed a Petition for Writ of Habeas Corpus Under 28 U.S.C. § 2241 on August 8, 2019. (Doc. 1). Thigpen failed to pay the \$5.00 filing fee for this action or file a Motion for Leave to Proceed *in forma pauperis* (“IFP motion”). The Court entered an Order requiring him to either pay the \$5.00 fee or file a properly completed IFP motion on or before November 10, 2019. (Doc. 3). Thigpen was warned in the Order that failure to pay the filing fee would result in dismissal of this case. (*Id.*). The date to pay the fee has passed, and Thigpen has not paid it or requested an extension of the deadline for doing so.

Accordingly, this case is **DISMISSED** without prejudice for Thigpen's failure to comply with a court Order (Doc. 3). *See FED. R. CIV. P. 41(b); Ladien v. Astrachan*, 128 F.3d 1051 (7th Cir. 1997); *Johnson v. Kamminga*, 34 F.3d 466 (7th Cir. 1994). Thigpen's obligation to pay the filing fee for this action was incurred at the time the action was filed, thus the filing fee of \$5.00 remains due and payable. 28 U.S.C. § 1915(b)(1); *Lucien v. Jockisch*, 133 F.3d 464, 467 (7th Cir. 1998).

The agency having custody of Thigpen is directed to remit the \$5.00 filing fee from his prison trust fund account if such funds are available. If he does not have \$5.00 in his account, the agency must send an initial payment of 20% of the current balance or the average balance during

the past six months, whichever amount is higher. Thereafter, the agency shall begin forwarding monthly payments of 20% of the preceding month's income credited to Thigpen's trust fund account (including all deposits to the inmate account from any source) until the statutory fee of \$5.00 is paid in its entirety. The agency having custody of Thigpen shall forward payments from Thigpen's account to the Clerk of Court each time the Thigpen's account exceeds \$10.00 until the \$5.00 filing fee is paid. Payments shall be mailed to: Clerk of the Court, United States District Court for the Southern District of Illinois. The Clerk is **DIRECTED** to send a copy of this Order to the Trust Fund Officer at the Greenville Federal Correctional Institution *upon entry of this Order.*

The Clerk's Office is **DIRECTED** to close this case and enter judgment accordingly.

IT IS SO ORDERED.

DATED: 11/22/19

s/ NANCY J. ROSENSTENGEL
Chief U.S. District Judge